

## MINUTES

### PLANNING COMMITTEE

August 10, 2016

A meeting of the Planning Committee of the County of Kaua'i, State of Hawai'i, was called to order by Mason K. Chock, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, August 10, 2016, at 10:43 a.m., after which the following Members answered the call of the roll:

Honorable Gary L. Hooser  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable KipuKai Kuali'i (*present at 10:44 a.m.*)  
Honorable Mason K. Chock  
Honorable JoAnn A. Yukimura, Ex-Officio Member  
Honorable Mel Rapozo, Ex-Officio Member (*present at 10:44 a.m.*)

Minutes of the July 27, 2016 Planning Committee Meeting.

Upon motion duly made by Councilmember Kagawa, seconded by Councilmember Kaneshiro, and carried by a vote of 4:1 (*Councilmember Kuali'i was excused*), the Minutes of the July 27, 2016 Planning Committee Meeting was approved.

The meeting proceeded as follows:

Bill No. 2627, Draft 3      A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 5B, RELATING TO THE LIHU'E PLANNING DISTRICT (*County of Kaua'i, Applicant*) (**This item was Deferred to the first Committee Meeting in January 2017.**)

(*Councilmember Kuali'i and Council Chair Rapozo were noted as present.*)

Councilmember Kaneshiro moved to approve Bill No. 2627, Draft 3, seconded by Councilmember Hooser.

Committee Chair Chock:      Thank you. I just wanted to give a little bit of background, especially for those who are following the Bill in the community. Last week, this Bill was referred from Council back to the Committee for its third time with the expectation that we would have some amendments that would include an island-wide approach to what we are proposing with Additional Rental Units (ARUs). No amendments have been proposed because I do not think it is possible to do it within this current Bill. So what it leaves us is really the option of how we want to proceed. The motions to consider are to refer this Bill back to the Planning Commission so that it can be worked on from an island-wide approach; or pass it and

see where it falls, which my understanding it probably will not have the support at this moment; or to defer it and have another bill, island-wide approach, be worked on to come forth and then be looked at side-by-side. For us in discussion today, it is really about do we want one (1) bill for each of the regions or do we want one (1) bill for the entire island to address this housing need with this particular initiative. With that, the motion right now is to approve. If there are any questions of the Planning Department, they are here. If not, then I will call for public testimony. Councilmember Yukimura.

Councilmember Yukimura: I have a question for the Planning Department.

Committee Chair Chock: Okay.

There being no objections, the rules were suspended.

Committee Chair Chock: Deputy Planning Director Ka'aina Hull. Councilmember Yukimura, you have the floor.

KA'AINA S. HULL, Deputy Planning Director: *Aloha* Council Chair Rapozo and Members of the Council. Ka'aina Hull, Deputy Planning Director.

Councilmember Yukimura: Good morning. How long do you think it would take to develop a policy for the whole island, and do you think it is possible given all of the planning principles that our General Plan has and the whole idea of focusing growth in Līhu'e, and all of the issues that would come up island-wide? Do you think it is possible to actually develop an island-wide policy for a proposal like this, and how long would it take?

Mr. Hull: I do think it is possible to develop it. Essentially, there are two (2) routes to do it. You can either do it via the automatic island-wide by amending the Comprehensive Zoning Ordinance, which is in Chapter 8, or you go into each of the respective development plans in Chapter 10 and essentially create verbiage akin to or similar to what was done for the Līhu'e Planning Area. Crafting the language could be done relatively quickly because we pretty much have the language to a certain degree set for the Līhu'e Planning Area. As far as the hearing process and I think it would be prudent upon the Planning Department to go into the communities either be it the neighborhood association meetings or other community type of groups to at least gauge where each of those communities might be as well as hold the public hearings at the Planning Commission. It would just depend. I would like to say we could get it done relatively quickly, but we would also like to do our due diligence to meet with various groups around the island to see how they would feel about this type of opportunity being provided.

Councilmember Yukimura: I think you can predict that everybody will say, "I want it, too," but the issues that are not raised in Līhu'e would be raised. For example, having all of these units in very high-priced areas where if there are no controls on affordability, will just yield pressures for illegal Transient Vacation Rentals (TVRs) and Bed & Breakfasts (B&Bs). Also, the whole issue on agricultural land. In fact, you will also lose the incentive that ARUs give to implement the

County's General Plan in terms of the concentrating growth in existing areas. It will spread out the growth incentive to every area of the island. Those are really big issues. It reminds me a lot of the work we did with farmworker housing where we had to craft it so carefully to ensure that a permit for farmworker housing would not turn into a country estate. The challenges are going to be major in crafting such legislation. We took three (3) years to develop the Farmworker Housing Bill, which you all helped with, and so you know the issues. I mean, that could mean that we delay the Līhu'e bill for three (3) years. Those are the issues that are raised in my mind as we begin to look at this. The whole idea of ARU was that it would incentivize growth where you want the growth, and if you put ARUs everywhere, you are losing that finely-honed tool.

Mr. Hull: I appreciate those comments, Councilmember Yukimura. Indeed the General Plan does look at centralizing the majority of growth in the Līhu'e area, but the General Plan also does not say that there should be no growth in other areas that we have to accommodate for. We are not violating the General Plan by entertaining it, but above and beyond that, we have not actually done the due diligence to look at the specific areas. That is why I am saying that we can go back and initiate the research as well as the potential bill, but I cannot comment any further on the fact that this indeed would be overly impactful.

Councilmember Yukimura: That is the risk, that is the challenge, and it is not going to be easy if you do it well. If you not do it well and you do not care what happens, then just do it island-wide, but I think the ramifications could be huge. If you are creating potential illegal TVRs, the impact on the Planning Department's work is going to be large as well. I mean, you already have an overwhelming job to enforce against existing illegal TVRs, and what you might be doing with this ARU Bill is creating more opportunities for that.

Mr. Hull: I can definitely see that point. The thing is, we live in a tropical paradise, so to speak. Whenever you talk about creating an Additional Dwelling Unit (ADU), you are looking at a potential of it being utilized as a TVR.

Councilmember Yukimura: That is my point exactly.

Mr. Hull: But at the same time, if we say we are not going to do any dwelling units, then we are not going to be able to accommodate for the growth of our island...

Councilmember Yukimura: We are not saying that.

Mr. Hull: ...for the internal growth of our island. Indeed I do see there are concerns about that, but to automatically say we should not entertain it because it might be a TVR, that in effect, is saying that we should not entertain housing at all.

Councilmember Yukimura: I am not saying that, Ka'āina.

Committee Chair Chock: Councilmember Hooser has a question.

Councilmember Hooser: I share a lot of the concerns about developing an island-wide bill. I agree we should entertain a look at other areas where it might be suitable. My concerns focus more on the traffic impacts. One of the attractiveness of the Līhu'e district is the internal roadway system allows people to virtually avoid the State highways if they want to, for the most part. You can go to major shopping areas, go to work, go to school, and not be on the highway. If were to effectively allow the doubling of density to say Wailua Houselots or Wailua Homesteads where I live, all of that traffic feeds to one (1) road onto a major failing highway at the moment. When you take that situation and you combine it with all the other situations with the different neighborhoods, how do we get a bill that is suitable to come to the table that deals with all of those things? It is one thing to deal with the Līhu'e district with three (3) neighborhoods, how do you possibly have a bill that deals with everything from Kekaha to Hā'ena?

Mr. Hull: Well, a similar bill was passed by the County several years ago, and that was the ADU Bill, right? That was an island-wide bill that granted additional density throughout the island. So there is precedence for it. But to your point, yes, indeed. I think there are concerns, in particular when you look at the east side that it may have on traffic. All I am saying is we have not vetted it. If it becomes a high concern at the Planning Commission level or at the County Council level should something like that be proposed, then yes. It ultimately gets vetted through those various hearings and the inputs from the community.

Councilmember Hooser: Okay. The Bill that we have before us that I believe has been thoroughly vetted and ready to go. The discussion on that started over a year ago. It has been over a year from starting the discussion like we are starting the discussion now, island-wide, to get it to this place. How long do you think it will take this new bill to go through to become a bill, number one, by the Planning Department staff, and then be presented to the Planning Commission and go through that process? How long do you think it will be before you can get something to the Planning Commission?

Mr. Hull: We could get something to the Planning Commission as early as October. At this point, we would still have to have discussions internally within the Department on whether or not it may be more prudent to first reach out to various community organizations before officially submitting something to the Planning Commission, or submit something to the Planning Commission as early as October and then take that to those various communities. That would take some internal discussions. The quickest we could get something to the Planning Commission would be October. The vast majority of the time that we have been working on this Bill has actually been spent here at Council. I think at the Planning Commission we took about two (2) months from the first public hearing to transmitting it up to this body. I am not faulting that.

Councilmember Hooser: Right.

Mr. Hull: There is a lot of concern about how long this is going to take. How long it is going to take at the Planning Commission may or may not be a short amount of time as it would take in discussions here at County Council,

and rightfully so. A lot of public input that we had, despite the fact that we are meeting with a lot of stakeholders, holding public hearings that were advertised and noticed, a lot more media attention was put on the Bill once it got to this level. A lot of times, that is where more public input comes in, when it comes up to you folks.

Councilmember Hooser: Right. It seems to me, if I remember correctly, that there was least three (3) months if not four (4) months before it even got to the Planning Commission once we had some original discussions with the Managing Director, Councilmember Chock, and the Planning Department sat down and said "What about this idea?" It took at least three (3) or four (4) months before the Bill even got out of your office, and what we are talking about is a much more complicated measure.

Mr. Hull: And that is what I am saying, Councilmember Hooser. The earliest I can project is October. I am not saying that it will be then, but the earliest I can project would be October.

Councilmember Hooser: Okay. Thank you.

Committee Chair Chock: Council Chair Rapozo.

Council Chair Rapozo: Thank you. The Planning Department's position is not that there should be no residential growth in any location except Līhu'e and Puhi, right?

Mr. Hull: That is correct. That is not our position. There is anticipated and projected needed growth in other parts of the island as well.

Council Chair Rapozo: Right. I do not know. One of the comments was that we want to direct the growth where we want it to occur. Does the Planning Department have a location on this island that you want development and that you do not want it anywhere else?

Mr. Hull: No. Under the General Plan that was adopted in 2000, which resets the policy for the County and Planning Department as one of those agencies of having a lot more growth in Līhu'e, but there is also growth projected and needed in other parts of the island.

Council Chair Rapozo: Right.

Mr. Hull: But it is not just saying that Planning Department wants all the growth to go in Līhu'e and therefore, that is why we are proposing bills as such. We are following or adopting and looking at specific policy measures that were established in the 2000 General Plan as well as established in the recently adopted Līhu'e Community Plan.

Council Chair Rapozo: Would you agree that every community on this island is in need of housing, not just Līhu'e?

Mr. Hull: Correct.

Council Chair Rapozo: As far as TVRs and if we open it up island-wide, that it is going to cause an increase, to your knowledge, do TVRs or B&Bs exist in Līhu'e?

Mr. Hull: There are some cases where we are actually pursuing in Līhu'e as of today. We are pursuing some in Līhu'e.

Council Chair Rapozo: My question is, would you not agree that those things are in every single district on this island?

Mr. Hull: Yes.

Council Chair Rapozo: If you do not believe that, you can check Airbnb. It is Līhu'e. It is Kapa'a. It is Wailua. It is Kekaha. Every single community has these things available. The fact that we are going to open it up island-wide is not going to invite any more potential violators of the law than already exist. They are doing it anyway.

Mr. Hull: Yes.

Council Chair Rapozo: They are already violating the law. My concern is the housing issue. I want to get a handle on the housing issue for our residents. We have to open it up island-wide. At the end of the day, is it not still the County's ability to even regulate that growth in that district or in that community?

Mr. Hull: Correct, I would agree with that.

Council Chair Rapozo: I have one (1) last question. We have two (2) options, you can work on a bill on your end and send it through. If a Councilmember wanted to draft a bill, that is still an option, correct?

Mr. Hull: That is. I know that there is this issue of timeliness. It could work a little quicker if we drafted it on our end, which we have no problems doing. But yes, it does not preclude Council initiating it as well.

Council Chair Rapozo: Right. I would hope that the Committee would let you draft it and run it through the process. But that does not stop any one of us from drafting our own bill and sending it across to the Planning Commission. Is that not correct?

Mr. Hull: Right.

Council Chair Rapozo: If we feel we can do it quicker than you, we could is what I am trying to say.

Mr. Hull: Yes.

Council Chair Rapozo: Thank you.

Committee Chair Chock: Councilmember Kaneshiro.

Councilmember Kaneshiro: From last week, I was the one who was up in the air as far as passing it as-is or getting a little more vetting. I was going to do an amendment to our Bill, but then after considering our options, it seemed like the faster route was to have the Planning Department do it because we have heard a lot of information about doing an island-wide policy and having them take it to the Planning Commission rather than it coming from us, going through first reading, and going to the Planning Commission anyway. My question was on size, too. I think we limited the size of the unit, and I think it seems like we should just vet the island-wide policy, but also look at if we need a size restriction on the unit because I feel like there might be houses ready that has a room and space that could add their kitchen and bedroom, but it would exceed the size limit. Would that mean they cannot do it? Will we only keep the sizes small?

Mr. Hull: To be clear, Councilmember Kaneshiro, are you referring to the size of the ARU or the size of the lot?

Councilmember Kaneshiro: The size of the ARU.

Mr. Hull: Okay.

Councilmember Kaneshiro: So there may be. I have had instances where people have called and said, "We have a house that we could modify, but the square footage is too big." If they split their house a certain way, add the kitchen, add the bedroom, and add the bathroom, but their square footage is too big. But they could do it in their own footprint. If the purpose is to increase housing, then I would love to hear the conversation on if we want to get rid of that, but still following all of the County restrictions as far as lot coverage and everything. Basically, if somebody has the ability to do it, we are tying their hands by putting a size restriction.

Committee Chair Chock: Vice Chair Kagawa, followed by Councilmember Kualii.

Councilmember Kagawa: Thank you, Committee Chair Chock. Ka'aina, I had several requests and one (1) just came to myself and Council Chair Rapozo. It was a house in Kapahi. Her mom is my former neighbor and she was saying she saw the last Committee Meeting. I think she read the *Garden Island Newspaper*. She said, "Why are you supporting something only in the Lihu'e district that will add to this area?" I had to correct her and told her that I was the only no-vote at the Committee Meeting. I actually was not supporting it for various reasons. She said that she wanted to just add another unit on her property for her mother to live in. We talk about this infrastructure increase and what have you, the increase for building for somebody that is already living with you, but just to have them in separate quarters is not going to increase any need of electricity, water, or sewer. There is still the same amount. Maybe more lights might go on, which is Kaua'i Island Utility Cooperative's (KIUC) problem, but I think they have sufficient power. For a family member already living with you, it is not going to significantly increase the amount of flushes or water that you need to cook with, right? It is not all the time that an additional unit is going mean infrastructure increases, right?

Mr. Hull: No, yes. I would agree with that. But in essence, I would also say that indeed there is no option for that particular person say if they wanted to build that other unit right now, which looking at the island-wide policy, would address that specifically.

Councilmember Kagawa: And that is why she was saying, why is this ARU Bill not afforded to all communities, especially like what the Councilmembers around this table talk about? They have a growing number of family members living in one (1) quarter and they are trying to give a little more privacy and comfortability to family members by putting minimum moneys into building a separate unit. We have some families in Kapahi that have four (4) or five (5) families in one (1) house. This Bill could actually help them more than help people in Līhu'e because already as-is, they are struggling to live in that one (1) house with that one (1) kitchen unit. Is it fair to say that a lot of the additions will not be a strain on the infrastructure because the same amount of cars are still going to be traveling along the road? They are doing it now, right?

Mr. Hull: In that one (1) situation, indeed.

Councilmember Kagawa: Not in one (1) situation. There are a lot of those situations like that around.

Mr. Hull: No. I was saying to that one (1) specific situation where the family members are already there and utilizing it indeed. We actually anticipate a fair amount of the units would be to accommodate intergenerational-type housing where you have *kupuna* or younger families living under the same roof, just converting so they have their own little private space. In those situations, you would not necessarily be increasing any additional burden on the infrastructure. The cases where you might, is where if someone built it with the specific purposes of renting it out to somebody who is not currently living at that site. I think it is definitely a fair assessment to say if they are already living under the roof. I will have to say in other situations where they will be renting out to a new family, so to speak, there would be additional parking demands. There could possibly be additional demands on water.

Councilmember Kagawa: I understand.

Mr. Hull: But at the same time, when these ARU units, if built, ultimately still have to comply and see if they meet the requirements of the Department of Water and the Department of Health when it comes to sewer or septic and so on and so forth.

Councilmember Kagawa: If they are already living in say Kapahi, the family is already living under their family's quarters and want to get out, a rental opens up under the ARU Bill in the Kapahi District, that would not be an additional strain on infrastructure.

Mr. Hull: Exactly.



Councilmember Kagawa: They would be simply moving into the same district that they live.

Mr. Hull: Yes.

Councilmember Kagawa: Is there any way for the language to be structured so that we could somehow allow family-type, *‘ohana*, or whatever you call that language to take care of instances like that island-wide? I think that is the burning question we want. We have people sending E-mails saying, "Why only Līhu‘e? Can we do it too in Kapa‘a and Waimea?" We have had numerous E-mails come since this Bill has come out in the newspaper. I want to thank the *Garden Island Newspaper* because not everybody watches Channel 53.

Mr. Hull: I do not want to say there is not language because in fact, I know on O‘ahu they did craft certain language to that effect. We did not include it quite frankly, Councilmember Kagawa, because it is an enforcement nightmare to try and enforce. They actually have language in O‘ahu bill about blood quantum aside from swabbing with a brush and finding out the Deoxyribonucleic acid (DNA) of people living under the roof. Language can be crafted specifically for that, but as I said, it would be hard to enforce.

Councilmember Kagawa: A lot of people would apply for it under that disguise and would actually rent it out for income?

Mr. Hull: Right. At same time, because there is so much of a need for rental units, period, that is why we did not object to it.

Councilmember Kagawa: Okay.

Mr. Hull: Or we do not object to the notion of providing for either intergeneration as well as to the general public for a rental.

Councilmember Kagawa: Final question, in the Līhu‘e district, we just saw a map of the Grove Farm Company, LLC property. I do not know how much is R-4, but the one that Anne talked about using that as the path. Would those lots not add to the inventory and replace some of the need for inventory that we are talking about that exists under the Līhu‘e plan’s demand for trying to add to inventory for need? If we have lots like those move forward, would that not open up inventory or do we feel that the market price of that does not apply to local people anymore?

Mr. Hull: No. Well, those have not gone through construction phases yet. So where the market prices are at, will remain to be seen. I will just say that area is indeed going provide much of the needed inventory for Līhu‘e. But the projections that came out within the Līhu‘e Community Plan, I believe, those projects or what is looking at projects that have been passed, or near subdivision, or have already gotten their entitlements, it looks like it contributes to about half of the necessary inventory for Līhu‘e over the next twenty (20) years.

Councilmember Kagawa: You folks counted the ones that are already zoned?

Mr. Hull: Yes.

Councilmember Kagawa: What you are saying is they only amount to half of the need?

Mr. Hull: Roughly half. So they contributed a significant amount, but not enough.

Councilmember Kagawa: Knowing that you folks have this huge inventory need, is there any efforts to work and help Grove Farm Company, LLC to try and get those to move so that the inventory need actually goes down?

Mr. Hull: Yes. We are working with all landowners too, yes.

Councilmember Kagawa: Thank you.

Committee Chair Chock: Councilmember Kualii, followed by Councilmember Yukimura.

Councilmember Kualii: Ka'āina, what I kept hearing you say is the whole thing about we have not done the due diligence to look at all of the areas. So it has not been vetted and that is why you cannot comment at this time. A lot of questions even in us considering amendments had to do with that, what else besides this Līhu'e district? The current Bill as it is written, was written according to the Līhu'e planning district and the Līhu'e Community Plan. So it is just very specific. We cannot even necessarily amend it because the title is Līhu'e. So it would take another bill, which you have not vetted. Your comments about within the next five (5) month period, which would have been the stay period of this Bill taking place as well, five (5) months and not three (3) years to just do the basic vetting of what it might look like in other areas, in other areas that once you pile it all up, it ends up being island-wide?

Mr. Hull: Right.

Councilmember Kualii: We may not get to island-wide for different reasons of the information you bring back to us. But you can do that and will do that with the Planning Commission and with Planning Department in this five (5) month period, correct?

Mr. Hull: Yes.

Councilmember Kualii: In doing that, the Līhu'e part is done, right? Besides then island-wide, which is just one (1) area and then the entire island, I think too, some of the thoughts about well Līhu'e is a center city with commerce, walkable streets, and everything. Līhu'e is not the only city on the island. Kapa'a, Waimea, and the sort are cities surrounded by suburbs and other smaller cities. So even if we were not to end up with a place of island-wide, we may end up at a place where we have three (3) distinct areas, which still is not wide open to the entire island, but it

does widen it from Līhu'e. Would you be bringing us back the information so that we could make that decision?

Mr. Hull: Correct.

Councilmember Kualii: Could that happen pretty quickly?

Mr. Hull: It could, yes.

Councilmember Kualii: Okay. Thank you.

Committee Chair Chock: Councilmember Yukimura, followed by Councilmember Hooser.

Councilmember Yukimura: If this Bill is to increase supply and it is applied island-wide to increase supply, will it not increase the possibility of the illegal TVRs?

Mr. Hull: It could.

Councilmember Yukimura: Well, you are saying that you already have problems in Līhu'e.

Mr. Hull: Like I said earlier, Councilmember Yukimura, whenever you talk about the ability to put another dwelling unit on any property, the potential of converting it into a TVR is there. It is just whether or not that particular landowner decides to violate the law and put a TVR in there.

Councilmember Yukimura: Correct. Would applying the Bill island-wide increase the potential for illegal TVRs?

Mr. Hull: It could.

Councilmember Yukimura: Thank you.

Committee Chair Chock: Councilmember Hooser.

Councilmember Hooser: I want to follow-up on what Councilmember Kualii was kind of leaning towards. How many planning districts do we have? Is it five (5)?

Mr. Hull: Five (5).

Councilmember Hooser: Okay.

Mr. Hull: Six (6). Sorry, six (6).

Councilmember Hooser: From the discussion around the table, I have heard no one with the exception to the question of size perhaps, no one objects to the fundamental concept of ARUs as presented in the Līhu'e district. No one seems to object to that. The objection is that everybody deserves to have this, why just Līhu'e?

But no one has really said it is a bad idea. Councilmembers can correct me if I am wrong on that. It is just that the discussion seems to be focused on “let us make it island-wide, let us make it island-wide.” If we agree that there are five (5) of planning districts because there are five (5) distinct areas that for planning purposes have their own needs, personalities, and vision for the future, it seems to make sense to approve the Līhu‘e one and then go district-by-district learning from the Līhu‘e one, but also analyzing each one as a stand-alone rather than trying to do the whole island. We take the west side, east side, or north shore and some of the areas that people may not want to have this in there, or may have too much traffic, or not enough infrastructure, or for whatever reason. My question is an incremental approach. Does the Planning Department have any opposition to that to passing this Bill as it is today since no one is objecting to the principle of the Bill, passing this today, and then the Planning Department recommend the next district to focus on, doing a bill for that district, and then doing it incrementally understanding that each district has its own needs and wants?

Mr. Hull: I have no objection to that either. This is originally initiated by the Administration. We would love for its passage today and its ultimate passage at full Council. I think the Department is just recognizing that there are some on the Council that are hesitant or would like to know more about a possible island-wide policy, which we are also at the point of saying that we can initiate the research and vetting of that as well.

Councilmember Hooser: But that could be done incrementally to accomplish the concerns or to satisfy the concerns of the Councilmembers who want to make sure that other areas, east side, west side, or whatever have the same opportunity? We can still do that. There is nothing to prevent it? The Planning Department would be willing to do that if we pass this Bill, and so we could accomplish the same ends?

Mr. Hull: Correct.

Councilmember Hooser: Thank you.

Committee Chair Chock: Council Chair Rapozo.

Council Chair Rapozo: I just want to make sure, your position at last meeting was that there was a chance that the Bill would fail, and rather than go down that road and the Bill fails and then we have to start all over was to just give it some time and work on an island-wide bill to save this one, really. Is that not what...

Mr. Hull: Ultimately, yes.

Council Chair Rapozo: But it is your preference to pass the Bill as-written?

Mr. Hull: We would like it passed, but we understand that there are concerns and it may not pass.

Council Chair Rapozo: Right, and that is a good concern because I think you heard from enough Councilmembers that have concerns. But the reality is that if we pass this Bill today, and you can correct me if I am wrong, if we pass this Bill today, no units will be available for at least five (5) months.

Mr. Hull: Correct.

Council Chair Rapozo: For at least five (5) months nothing can happen because the Bill will not become effective for five (5) months. If in four (4) months this Council has an indication that the Planning Department is not going to get it done, then this body could bring back this Bill, pass it, and remove the five (5) month restriction, right?

Mr. Hull: Yes.

Council Chair Rapozo: I do not want the emphasis to be placed on “we are holding up the process,” because we are not. This Bill has a five (5) month holding period anyway. We are not holding up anything. Is that correct?

Mr. Hull: I would agree with that.

Council Chair Rapozo: Thank you.

Committee Chair Chock: Councilmember Kaneshiro.

Councilmember Kaneshiro: I think for me, it is kind of a new focus. The focus of the original Bill was on creating more affordable housing and affordable units. We spent a lot of time on it, but your focus is so thin and you take a step back and go, wait, are we losing what the focus was? I have been hesitant to pass this because I want to see what is going to come out of the island-wide discussion. Maybe we might try to loosen up some of the things in here and maybe new things might come up that we say might work in the Līhu‘e Community Plan. It was just getting a comprehensive look at it. I would rather get a comprehensive look than pass something and say, “Do you know what? We should have put this discussion into this Līhu‘e bill or we should have done that.” Look at it all. In the end, we may say, “No, this Līhu‘e one is the one we want to do. It is too convoluted to do it island-wide, so let us go with that.” I would be a lot more comfortable just having that comprehensive look. I do not know. That is just me because there might be things that work well in Kapa‘a that may end up working with well in Līhu‘e that we did not think about. That is just the comprehensive look that I was wanting.

Committee Chair Chock: Are there any other questions?  
Councilmember Kualī‘i.

Councilmember Kualī‘i: Just another thought or question that came to me is in vetting the other areas or the other districts, you had mentioned there are five (5) or six (6) districts. You said six (6). It would be interesting to see, too, how the districts align with the Visitor Destination Areas (VDAs) and how perhaps we avoid those areas because of the threat of more illegal TVRs because some of those areas, even though the entire island is beautiful and attracting potential illegal

activity, there are some areas that it is even higher. So perhaps we could get all of that information as well to think about when we make this future bill decision.

Mr. Hull:

Yes.

Committee Chair Chock:

Councilmember Yukimura.

Councilmember Yukimura: Kaʻāina, you said that the Planning Department has said that we want to see a lot of growth in the Līhuʻe area because it is the heart of Līhuʻe and close to infrastructure and services, but we want to see growth elsewhere as well. When you say “other areas as well,” is it not the purpose of the community plans to actually determine where in each district that growth will occur?

Mr. Hull:

I would say that is a fair statement. I would agree with that statement. I would also put as a precursor to that statement that some of the community plans are decades-old and there are changes that occur throughout Hawaiʻi and Kauaʻi as well where the Planning Department, the County Council, and the County as a whole needs to respond to. There will be situations in which the community plan is still old and therefore, you cannot just solely say because the community plan does not ask for specifically ARUs, then we should not do the ARUs. I would say there are areas on Kauaʻi itself where in this particular situation there is a housing crisis, which when some of these plans were passed, Kauaʻi and the State of Hawaiʻi were not going through a housing crisis. In order to respond to the needs of Kauaʻi as a County, we also need to be able to react sometimes outside of the plan, per se.

Councilmember Yukimura: I would guess that anybody advocating for good planning would say that it would be important to go through the community planning process to determine where you want growth before you start allowing growth.

Mr. Hull:

I would say that is a fair assessment. We are in the process of updating these plans and the long-range team in our office has done a wonderful job in getting two (2) community plans updated within the past two (2) years. Our resources are limited. If we could do the community plan updates for every single community plan this year, I would love for it. We just do not have the staff to do it.

Councilmember Yukimura: Rather than say we should not apply an ARU overlay to a plan where there is no updated community plan, you would say let us just put ARUs overlay even though we do not have a community plan?

Mr. Hull:

No. What I am saying is we would like to work with the community to see if an ARU entitlement would be appropriate for that community.

Councilmember Yukimura: How do you know whether it would be entitled or whether it would be a good thing without having an updated community plan?

Mr. Hull: Councilmember Yukimura, I think we are going to go in circles here. Like I said, it would be most effective if we could do the update. I definitely agree with you. But seeing that we are probably several years out from having all of the community plans updated, I would not want to pigeon-hole the Department or the County into saying we cannot respond to changes in our built environment and our needs because we do not have the resources to do a full-blown community plan update.

Councilmember Yukimura: It is very interesting to hear the Planning Department say that. Thank you.

Mr. Hull: I will leave it at that.

Committee Chair Chock: Follow-up, Vice Chair Kagawa.

Councilmember Kagawa: In regards to the ARU discussion, has the Līhu'e Community Plan group been more active than say Waimea or Kapa'a Community Plan group in regards only to the ARU discussion? You said the ARU discussion came from the Līhu'e Community Plan. Did you say the Kapa'a or Waimea plans are decades old?

Mr. Hull: Yes.

Councilmember Kagawa: But the Līhu'e plan is not decades old?

Mr. Hull: It has only been in effect for about a year now.

Councilmember Kagawa: About a year. She is saying if the community plan does not have it, then do not do it. They talked about the Līhu'e plan a year ago, so great. She is saying let us do it. But because the community plan has not met for two (2) decades, she is saying, "No, you do not get it because you have not talked about it." Is that fair though to Waimea and Kapa'a, that their communities may need it, but their community plan has not been updated? Is that fair?

Mr. Hull: That is all I will say, that I think the County should respond to needs of the various communities.

Councilmember Kagawa: Like I said, we are getting the same requests all over the island saying for family housing and family needs. My concern is this, I was wondering if the Planning Department could take a step further and look at the lot areas and maximum floor areas whether those fit. I would say if you can take that separate, like how you had the Planners go out and inform the community that we are having this Puaole Street discussion on this date and we welcome your input. Go out to some of these houses in Puhi, Hanamā'ulu, and Kapahi that have multiple families and see what lot areas and maximum floor areas are realistic that would work because I am sure that not everybody would be suited with a one (1) bedroom in a four hundred (400) square foot area. Now that number may be...and we are not saying put mansions as your ARU, but I am saying there may be room to massage it. Maybe six hundred (600) square feet or seven hundred (700) square feet might be more realistic for the five thousand to seven thousand five hundred (5,000) to (7,500).

For the seven thousand five hundred (7,500) or more, it might be one thousand (1,000) square feet or one thousand one hundred (1,100) square feet. The people that would know would be the local contractors who do a lot of these types of work and the residents because they would know what is realistic for my child to move into my house and raise his family of two (2) while they wait to save up money to get a place of their own. I think Councilmember Chock talked about his son coming back some day and it would be nice if he had it. I think when we pass a bill, if we can do that due diligence and we may already have, on whether these numbers can be adjusted to make it realistic so that it works.

Mr. Hull: Yes, definitely.

Councilmember Kagawa: Thank you.

Committee Chair Chock: Members, I just want to remind us that the reason why we are here today is because it did not pass or was not going to pass at the Council. We need to get to a decision on where we can move it forward, if that is the interest. Are there any further questions? Councilmember Yukimura.

Councilmember Yukimura: I am not saying that just because you do not have an updated plan you should not consider ARUs. I am saying that in considering ARUs, you need to know how much growth is already accommodated for by existing zoning that is not built, you need to know how much growth that particular district is assigned for, how much R-6 and R-4 zoning there is, and all of that. So would you not need to have this updated data in order to even apply or consider whether to apply ARUs?

Mr. Hull: Councilmember Yukimura, I can actually agree with that. I believe we have that data in-house. I believe we do with the General Plan update that we are doing now that has looked across the island at the needs. I do not have those numbers off the top of my head in particular because like I said, we did not entertain looking at the other districts.

Councilmember Yukimura: Would it not be good to spend the time and resources, which are not overabundant, to actually develop an updated plan that may include or may not include ARUs, but incorporate ARUs in the discussion of updating the plan?

Mr. Hull: Are we talking about the General Plan or Community Plans?

Councilmember Yukimura: Community plans, where there is not an updated community plan in place.

Mr. Hull: I am not understanding the question.

Councilmember Yukimura: Instead of just saying we do not have an updated plan, but we will just put an ARU overlay on it, would it not make better sense to do the community plan and in the process of doing the community plan, consider whether an ARU overlay would be appropriate and how it would work?



Mr. Hull: That would be best planning approach, yes. But in response to that as well, some of these plans will not be updated for the next several years. When we have time and we will do as soon as we are done with the General Plan, which is where our entire long-range office is focused, is looking at updating the next community plan. There are three (3) or four (4) plans out there that still need to be updated and have not been updated in several years.

Councilmember Yukimura: And the community plan is going to have to be in accordance with the General Plan?

Mr. Hull: Correct.

Councilmember Yukimura: How do you know whether it will be in accordance with the General Plan unless you actually go through the process?

Mr. Hull: Yes. I agree with you, Councilmember Yukimura. That is one (1) route to doing it, but it would also quite frankly, mean that say of the four (4) plans that have not been updated in recent time, several of them are decades old. It could mean that fourth and final one that we get to does not actually get to get an ARU entitlement until the plan is adopted, which could be ten (10) to fifteen (15) years from now.

Councilmember Yukimura: How do you know whether an ARU entitlement is needed unless you have analyzed how much growth you want in that community and where you want that growth?

Mr. Hull: Like I was saying, I believe with the General Plan update, we actually have the data as far as the projected needs for each of the...

Councilmember Yukimura: What about where you want the growth within the community?

Mr. Hull: That is where we could vet during the public hearing process for the updates.

Councilmember Yukimura: I do not know how you could do that without the context of a plan, either the Planning Department or the community.

Committee Chair Chock: I am hearing the same answer come from the Planning Department. If there is a new question, I will entertain it. If not, we have a line of other people.

Councilmember Yukimura: Yes, fine.

Committee Chair Chock: Okay. We will come back then. Council Chair Rapozo.

Council Chair Rapozo: I will try to reel this right back into the original discussion. Right now, if this Bill passed today, the effective date would be

February 2017. I am going to frame this hopefully in a way that can help one (1) of the Committee Members frame the motion. If we pass this today, it does not take effect until February 2017. I am going to give you a timeline and all I want to know from you is if it works for you in the Planning Department. If we are to defer this matter to January 2017, which one (1) month short of the effective date of what we are facing today, with a status update from the Planning Department in a Committee Meeting in December, and I am choosing December 7<sup>th</sup> just because it is the first Committee meeting in December and I think it is the only Committee Meeting in December because of the Christmas break. Anyway, defer this Bill to January 17<sup>th</sup> with a status update from the Planning Department on December 7<sup>th</sup>, you should have a good indication where this Bill is at the Planning Commission by December 7<sup>th</sup>, correct?

Mr. Hull:

Yes, I would anticipate that.

Council Chair Rapozo: If it is not going as well as we hope it will, which I doubt. I think it will. But if we do not, whoever is sitting at this table at this time can make the determination whether or not we are going wait or this matter will show up on the January agenda for a final vote and they can accept this Bill. In fact, one (1) month prior to the effective date of what we are contemplating today.

Mr. Hull:  
objections to that.

Yes, the Department would not have any

Council Chair Rapozo: The net impact to the community, in essence, if we go that route, we would get this done a month earlier than this current Bill. I do not want the public to get the impression that we are delaying this because the Bill is designed to be on hold for five (5) months. If we go on the recommendation that I just made, if the Council at that time believes we are not going wait for the island-wide, we are going move forward, remove the five (5) month restriction, this Bill could be in effect in January of 2017 versus February. So in essence, this action could expedite the process by a month?

Mr. Hull:

It could, yes.

Council Chair Rapozo:  
Chair Chock. Thank you.

That would be my suggestion, Committee

Committee Chair Chock:  
by Councilmember Kaneshiro.

Thank you. Councilmember Hooser, followed

Councilmember Hooser: Why could we not just remove the date now and make it effective thirty (30) days from now?

Mr. Hull:  
do you can do that.

Councilmember Hooser, you know as well as I

Councilmember Hooser: Right. Thank you. In effect, in my opinion we are delaying the implementation of new housing solutions. I was not here and I did not vote on the one hundred fifty (150) days or whatever that was. It is my

understanding there is some time needed if we want to have incentives. The O'ahu Bill did not have incentives and they are working on incentives now that are retroactive. We could remove the date, have it go into effect thirty (30) days from now, and people could start pulling permits right away. That was not my question. My suggestion was going to be similar to Council Chair Rapozo's, but I was going to say that we defer it until November 9<sup>th</sup> when we could have a more reasonable discussion. It is any my understanding if we look at past votes, there are three (3) of us on the Council who supported passing and we obviously need a fourth one. Councilmember Kaneshiro had been a fourth and changed his mind. I guess I would ask if there is any Councilmembers that want to join and be a fourth vote and work out the additional details if it is the size of the structure or whatever, we could still continue working on this and do it incrementally. I am not arguing that we should look at other areas of the island. I am saying we should pass this and do it incrementally. Committee Chair Chock, that would be my suggestion, that we also defer it if no other fourth Council person is going step up to support it.

Committee Chair Chock: Thank you. I think there are still more questions, but if you could please get to stating where you are on this so we know how to move forward. That would be my interest. Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: I am done with my questions. I think it was going to go in circles anyway.

Committee Chair Chock: Okay. Are there any further questions? We will take public testimony at this time.

ALLISON S. ARAKAKI, Council Services Assistant I: The first registered speaker is Lonnie Sykos, followed by Anne Punohou.

LONNIE SYKOS: Good morning Council, Council Chair Rapozo, and Committee Chair Chock. For the record, Lonnie Sykos. Roughly twenty (20) years ago on Maui, I was involved in the same discussion with the same basic issues and I am having déjà vu. The déjà vu I am having is cognitive dissonance. For people watching that may not know what that means, that is when pretzel logic runs into pretzel logic and tries to find a solution of which there is not possibly one because it is all pretzel logic. I do not understand why there is a unit size. I totally do not understand it. That is already covered by the Code. Why is it that we are arbitrarily limiting the size of the additional rental when we want more rental units? We need more square footage of rentals, so why is it being limited? I would like a rationale response please. Also, all of this talk even today about maintaining the rural quality of Kaua'i, but what we are discussing is the urbanization of the Līhu'e district. We are talking about ending the rural quality and creating an urban environment, which I am not opposed to. I am also not in favor of it. It is just simply a statement of fact. We are talking about increasing population density, which is the opposite of ruralism. So get honest about what the intention is in the long-term. The intention is if you are going to increase housing and business activity in the Līhu'e district, it is not going to remain rural. It is not particularly rural today, and it is just going to become more urbanized as will Kapa'a, as will Waimea, and as will wherever the development ends up occurring on the north shore, probably Princeville. In regards to the ongoing issue of TVRs, if I opened a saloon in my house, I would be criminally prosecuted. If

I opened a crack-smoking room in my house, I would be criminally prosecuted. If I misused my property for business purposes in ways that violated the law, I would be prosecuted. But I can illegally rent my house out, I can violate all of the ordinances, and all that can happen is that you come after me with a civil suit. So if you want to solve the TVR problem, make them illegal.

Committee Chair Chock: Thank you, Mr. Sykos. Next speaker, please.

Ms. Arakaki: The next speaker is Anne Punohu, followed by Alice Parker.

ANNE PUNOHU: *Aloha.* For the record, my name is Anne Punohu and I would like to take my whole six (6) minutes. I have listened to what everybody had to say, but nobody ever listens to what I have to say. I have been at this table for more than twenty (20), almost thirty (30) years talking about the same thing, and none of you ever listen to me, none of you put me on a committee, and none of you put me anywhere where I can do some good. I am going to say something right now, I love each and every one of you. I have known you all forever. I like the idea, whatever. I am going to say something right now, none of this is going to work unless you listen to me right now. Our issue is not inventory. It is an issue, but you can make as many rental units as you want to on this island, but if you do not implement a proper rent control or rental cap on this island, you will have all of those TVRs that Councilmember Yukimura is talking about. I agree with what Councilmember Yukimura is saying. I agree, Councilmember Hooser, this should pass. But do you know what? The cat is out of the bag and that is it. Unless you folks stop, take five (5) steps back, and listen to people like me. I do not want to sound arrogant, but I do know what I am talking about. The people here do not need what you folks are talking about. The only people that can provide these rental units are people who own homes. The people who own these homes generally are thinking *kālā*. The people that Councilmember Yukimura is worried about, the TVR people, they are going to charge whatever they want. When I sat here and listened to that exemption, which gave eighty percent (80%) median income, ridiculous. So please listen to me for once, back up the cart. I know, Councilmember Hooser. Unless you want to do it incrementally and put in an amendment that clearly states that in the future if there is a rental cap or there is rent control in the Līhu'e district and this Bill will comply, then I will be all for passing this today. But unless you can do that, no. Island-wide, you need to piggy-back this on rent control or rental cap, or all that will happen is the same thing that is happening today. People will rent out units for three thousand dollars (\$3,000) to four thousand dollars (\$4,000) and none of the working-class can afford it. This is about the working-class. If you continue to make jobs for people in an area, it does not matter if they live there. It is not even about the community or if the community wants it because a lot of times you have something in the community like a major hotel, which in the VDA and you have a lot of workers that need to get to that hotel to get to work who have a problem because they cannot afford a rental in the area of the VDA where the big hotel is. Kaua'i Marriott Resort is a good example. Princeville is a good example. The County and State housing opportunities, no. First of all, we are tired of living in them. They are nightmares to live in. I do not want to live in them anymore. I want to be integrated back into the community. I want to live around people who are doing better so that I can be encouraged to do better.

Committee Chair Chock: *Mahalo.*

Ms. Punohu: Thank you. *Aloha.*

Committee Chair Chock: *Mahalo. Alice.*

ALICE PARKER: Alice Parker for the record. First of all, I do not think we should limit the amount of extra space. I know there are studio apartments at Sun Village where I used to live that are less than three hundred (300) square feet. You can get by on less than that. For two (2) people, it is a little tough, but I supposed if they are skinny, it might work. The other thing is that yes, we need more housing available for people. We need additional dwelling units, but we must insist that the infrastructure is correct. It has to be a sewage system. We can no longer allow cesspools. They have to be closed out. Our land, water, and oceans will be polluted. We have got to get rid of cesspools. If they want to add space on their units, be sure the infrastructure can contain it and that the sewage can contain it. Thank you.

Committee Chair Chock: Thank you. Next speaker.

Ms. Arakaki: There are no further registered speakers.

Committee Chair Chock: Is there anyone else that would like to speak for the first time? Bruce.

BRUCE HART: For the record, Bruce Hart. I was sitting here listening to this the last time it was discussed and opened up the door for this island-wide area. It just seems that of all of the things that I have heard, I am going to go with Council Chair Rapozo's recommendation and that you just set this aside for a while. I listened to the Planning Department, I listened to all of you, and there are just a whole lot of "what ifs." Councilmember Kaneshiro said something about us needing a comprehensive view. What if you pass this Līhu'e one and you actually run into a problem because you passed the Līhu'e one? It is not that I would not like to see it go through, but I am thinking that now that it is expanded to island-wide, let me express some of my concerns. Some of them come from every chair here. I am really concerned about what Councilmember Yukimura is saying. I said this way back when this began, about density. There are issues here that you are just not facing when it comes to density. I appreciate what Councilmember Kagawa said about there is an elderly person in the home. But what about when that elderly person passes and the unit is there? Are they just going to leave it empty? Who is going to move into it? They are going to be more cars. If you have parents and two (2) children, you are going to have more cars. When are they going to move out? Are they ever going to be able afford to move out? The density is just going to increase, increase, and increase. At the same time, I am torn because we have to provide more housing. We are so far behind now that I think it is almost overwhelming. We try and figure out what we are going to do. My recommendation is that we do some long-range planning and we get more new subdivisions. We have to open up the door. If it means that we have to take the step to not require the developer to have as much affordable housing, at least we will have more housing even if it is not so-called

“affordable” housing. If we can just increase housing, it seems to me it is the only thing we can do, long-range. Okay. Thank you.

Committee Chair Chock: Is there anyone wishing to speak for the second time? Lonnie, did you want to come up?

Mr. Sykos: For the record, Lonnie Sykos. I am going state this again, this whole issue with TVRs exists because the County willfully chooses not to use the tools that you have to control it. Make TVRs a criminal activity. They conspire to violate the Code regulations. Under our system of law, conspiracy to commit a misdemeanor is always a felony. People go on the internet and advertise. They know it is illegal and they do not care because they are making the money, and other people are doing it. All of their justifications. If you want to get TVRs under control, you should be meeting in Executive Session with the County Attorney and coming up with language so that you can prosecute people who operate illegal TVRs and that will shut them down. But short of that, all you are going to do is spend endless money through the Office of the County Attorney chasing civil violations. This is twenty (20) years of wisdom from Maui County. I went through this. I went through endless hundreds of hours of meetings, discussions, and all of that. Our legal counsel on Maui told us that the only way to get it under control is to criminalize it. Whether they actually did it or not, I do not know because I moved here and I did not continue to follow the issue. Honolulu did *‘ohana* housing twenty (20), thirty (30), or forty (40) years ago. They tell us endlessly, ninety percent (90%) of them instantaneously went into short-term rental. None of it went to *‘ohana* housing. Why? Because it is where the money was and they cannot afford to build the addition to the house to modify the house and then pay for the modifications through some low-rental cost. The other Counties have struggled with this. I am not sure that we have gone and looked at what has occurred in the other Counties and tried to anticipate what will happen here. In general, I actually do favor this because it is the most rapid and quickest way to get more housing inventory. Personally, I would love to enclose half of my carport. I have already have the bathroom. I can put a kitchen in, move into my carport, and rent my two (2) bedrooms out to somebody’s family. But I legally cannot do that today. I could rent one (1) of my bedrooms out to somebody, but I could create housing for a family if I was allowed to. So that is why I do favor this, but like I said in the beginning, cognitive dissonance. Thank you.

Committee Chair Chock: Thank you. Would anyone else like to speak for a second time?

Mr. Hart: It has occurred to me, if I can express my concern as to density, it has to do with it being island-wide and as Councilmember Yukimura said, the issue of agricultural land and et cetera. What I envision in my mind is...maybe I am blowing this up too big, but I envision...we looked at that sign behind there, that is our island. We have this spread of density all over the island instead of planning for a reasonable amount of density in specific areas. That is what I think is more responsible. But again, that is why I am going with Council Chair Rapozo’s recommendation that we just need more time. These kinds of issues are going come up. We are going to have to discuss it. It is not going to happen overnight. I just think everybody wants to get something going. We are getting something going. We are discussing it. We just need to keep moving forward. I also want to give a

thought, there is this affordable housing. It is built into the system that every time a development going up, there has to be a certain number of affordable housing. How about instead of affordable so much, how about a size? How about we go small homes for small families? Within a certain development, there are a certain number of large homes and there are a certain number of small homes. The small homes would be priced more reasonably to the first-time homebuyer and would accommodate the first-time homebuyer, the small family. I am not sure that "affordable" is...it overwhelms the developer. They want to be able to make enough money to support the project. Okay. Thank you.

Committee Chair Chock: Thank you. Would anyone else like to speak for a second time? Okay.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Committee Chair Chock: Committee Members, in order to move this forward, if we are moving down the road of a deferral, there are multiple choices. One (1) would be pending a transmittal from the Planning Department with a new bill. The other would be, because we do not have a calendar in 2017 yet, we could identify the first Committee Meeting within 2017. I have also heard a request to do it before the end of the year. I will entertain those as we discuss this further. Is there any discussion on this? Councilmember Kagawa.

Councilmember Kagawa: Thank you. It is interesting that Bruce talked about the situation that Council Chair Rapozo and I got the letter about. It was about the Kapahi request for the ADU for the grandmother. It is not about when grandma passes way, does it turn into a rental? What grandma was asking for was fairness. She said, "If this ARU passes in Līhu'e and her property was in Līhu'e, she could build a house for grandma to live in." She is saying, "Why are you folks only allowing people in Līhu'e who have a similar situation, to be able to do it?" That is all what the request was. It is a question of fairness. I think the ARUs that I could foresee in the future will be exactly as Councilmember Chock said about his son coming back later from college. Where is he going live? Where is he going to build? If you have that unit, maybe the son, daughter-in-law, or family can live in that unit and save some money. It may take ten (10) years to get the twenty percent (20%) down payment for a four hundred thousand dollar (\$400,000) house. But that is how local people do it now. Nobody has one hundred thousand dollars (\$100,000) saved up. How do you accomplish that? You either live in your family's home, save up those funds, or if you are afforded this type of situation, you can have that ARU. It is not selfish of Councilmember Chock. There are many people, thousands of people, on Kaua'i in that situation. Now how do we fairly do it not only in Līhu'e, but all over regardless if community plans were updated last year or twenty (20) years ago? We are the body that sets the stage for how we take care of our people and how we provide housing throughout the island in a fair manner. So that is what this Bill comes down to. That is how the request comes to. As far as affordability, I agree. Affordable housing is a problem. That is a separate issue from this. I think what we are talking about is adding more inventory. I think in response when you add inventory, there may be some affordable situations that end up because people do not rent to the highest person in all instances. I know a lot of people who rent because they like the

tenants. No, I disagree. There are some people that like tenants and want to help out other people that will keep rent downs. That is how Kaua'i works. It is not only about money. Sometimes it is, but sometimes it is not. When you have the available inventory expanding, I think it will have a positive effect on some affordable units opening up because sometimes you have tenants that you let them pay a lower price because they do not damage the property. They treat it with respect. I mean, that is what I saw growing up. It is not always about money. I think we are off to a great start by adding inventory, but we can make it better. I think we can make it fit. Just because Honolulu has these dimensions, does not mean it is going to work here. I think maybe we need to increase the maximum floor areas. I want to come up with the best possible bill. Let us use that time and let us make this bill as best as we can before we get it out, so it has the most success. That is all I am saying. Let us not look at this as "oh, we are delaying it." It is not delaying it if we are making it better. We are bettering it. Cut the politics. Let us get out to helping the people. Thank you, Committee Chair Chock.

Committee Chair Chock: Is there any further discussion?  
Councilmember Yukimura.

Councilmember Yukimura: For me, I think the Planning Department has said this before, too, the small size is a protection against speculation and we wanted to start there. That was one of the things that would allow me to approve it without requirements for affordability. There are a lot of minefields with this that would create planning nightmares if we do not do it correctly. It makes a lot of sense to do it in Līhu'e first and see. If we make errors, let us make errors on a small scale instead of island-wide, and let us learn from it. Let us learn how to address it and then go forward. I think a lot of people do not realize that this Bill will not apply to them even if we say we apply it island-wide because you have to be on urban land. That is a given here in this Bill, and you have to have a septic tank or a sewer. There are no sewers in Kalāheo. There are no sewers in Kīlauea. People are thinking this would apply, but it really will not because we have all of these other things about making it work properly, whether it is parking, or sewage, or that kind of thing. So that is why Līhu'e was a more logical place to start. That is why if we would do it in Līhu'e first, we would learn from it and then maybe go beyond. To me, that makes more sense.

Now about keeping rural character, there is no way we are going keep the rural character of this island without increasing densities within our towns. By increasing density, three (3) or four (4) stories, I am not talking about high-rises. There are three (3) to four (4) stories in Waimea Town and it is wonderful. Waimea is one of the most walkable towns. It is about being within in five (5) to ten (10) minute walk. Waimea is the perfect walkable community. How do we keep it? That is why you need a plan. You need community plans that do not allow you, in any district, to just go all over the place because do you know what? The nemesis or the antithesis of rural is suburban sprawl. If you want low-density sprawl everywhere or if you want a Los Angeles, then we should not have our general policy of compact, walkable towns connected by a good highway that supports good transit. You cannot have low-density sprawl because that is not going to be rural. If we really want to keep rural character, it is about continuing to have these open spaces and these long distances up to the mountains, down to the ocean, but compact towns not spread all the way between



Wailua and Lihu'e or Lihu'e and Kōloa. Then, you will get Los Angeles and that will not be rural at all. So that is why we are having to be where the sewers are and where the infrastructure is. It has to be hand in hand with planning. If we violate our planning guidelines, then we will not preserve the rural character of our island.

Committee Chair Chock: Thank you. Council Chair Rapozo.

Council Chair Rapozo: Thank you. I have a couple of clarifications. I know Lonnie talked about why we are addressing the unit sizes in this ordinance and that it is already established in the Code. The reality is the Code says it is illegal to build on lots of this size. We are basically establishing the ability for people to build on homes under ten thousand (10,000) square feet, so we have to establish the size. The Code says it is illegal right now, so that is why. Councilmember Yukimura said this only applies to areas with sewers. That is not true.

Councilmember Yukimura: Or septic tanks.

Council Chair Rapozo: It opens it up. Basically, it opens it up to anybody. If you are not in a sewered area, you still have to have an individual wastewater system and different places have different guidelines for that. It is not just for sewered areas. As far as the affordability, initially when the Bill first came across, it basically was portrayed as an affordable housing bill, but it was not. The fact that the affordable language was removed at least got my attention where I could consider it. But the reality is exactly what Anne said. The inventory is an issue. But if we do not have an affordability clause in here, it is not going to help a big chunk of people that need it. What can the County do? We can do two (2) things, and I think Councilmember Kagawa is exactly correct. There are many. I would not say the majority, because I think times have changed and now people are building these units to generate money. But there is still a big chunk of people and we know this from the discussion when we had the real property tax discussing the United States Housing and Urban Development (HUD) guidelines, that we have people on this island that are renting their properties out well below market because they want to help families and they want to keep good tenants. We cannot discount those people. This County, if we are serious and we want to increase inventory, but we also want to address the affordable housing issue, then we do it through tax incentives. If you rent your property...and this is what we need to be looking at. If you go above the one hundred twenty percent (120%), sorry, you just pay the market tax. As you go down lower on the scale of affordability, eighty percent (80%), your tax rate drops to this point. If you go down fifty percent (50%), it drops even further. That is the only incentive because if you are not giving them a reason to rent to the affordable housing market in the way of, if I pencil it out and I lose too much money if I rent affordably, they are not going to do it because the cost as Lonnie said, the cost it takes to build the structure, improve the structure, maintain the structure, just the cost of having a tenant, and something breaks you have to fix it. It does not pencil out. If we want to be serious about solving that problem, then we in a sense have to subsidize that effort in the way of incentives to keep the rents affordable. It has to be so attractive that the majority of the people going into this ARU program are going to go with the affordable rentals. That is the only way we can do it because as far as rent control, we are limited to what we can do based on the Constitution, but we are not limited to what we can do in the way of real property tax incentives. That is the direction that

we basically have to go. If you want to change behavior, you have to pay them for it because it is just too expensive nowadays to maintain a rental. So that is something that we have got to discuss going forward. Again, I am hoping as we go through the planning process, that can also be addressed. Thank you. I think you heard my comments as far as the suggestion. Thank you.

Committee Chair Chock: Councilmember Kaneshiro.

Councilmember Kaneshiro: First off, I just want to say that forcing a vote on this now does not accomplish anything. I voted on this earlier and again, I am just saying we took a narrow view at it and now I am taking a step back and taking a wider view of it. That is what we should be doing as we go through laws. It gets adjusted, it gets amended, and things get taken out. You always have to take a step back and say, "Is this doing what is intended or is there a better way to do it?" I repeated myself numerous times the last time. I will repeat it again. I think we need to take a step back, vet it, and look at a comprehensive view of island-wide policy and the size of the units. Do we eliminate the size? Do we leave it in? Now the intent of the Bill is to increase units. How do we best do that? We relook it. That is where I stand. I think there may be new things that come up that we may see when we are looking at Kapa'a or other districts that we say, "This might be a benefit in the Līhu'e district." That is why I would rather take a comprehensive look and then come back and look at everything altogether, rather than say, "Let us pass something now, let it go, we will take a comprehensive look, and maybe there might be things we need to add back to this individual one." Take a step back. That is all I am saying.

As far as the confidence in the Planning Department, I think I have confidence in the Planning Department that when they look at an island-wide policy, they are going to look at growth, density, infrastructure, and then they are going to come up with something. They did do a good job of that. They always have done that. They are going to do their homework. They are not just going to say, "Here, let us fly an ARU on the table, and all of these." Also as far as tax incentives, anybody that does an ARU can take advantage of certain tax incentives that we have now. If they rented at fair market value, then that property is going to get taxed as a commercialized home unit. If they rent that property at the affordable housing based on our affordable housing policy, then that unit is going to be taxed as a homestead. These are all business decisions that an individual homeowner is going need to make. Again, I said we cannot force them to do it, but we can provide them with the opportunity. That is why I think the size was a red-flag for me. If somebody has an opportunity to do it, then why are we limiting the size? If the house still meets all the specifications of the County, then why limit the size? Those are all considerations that I would love to have vetted and hear. It would give me the confidence to make the vote on this. In the end, we could end up with the same exact bill that we have here, but I can tell you that I would be a lot more confident voting on it once everything was vetted then to vote on it right now. That is my position.

Committee Chair Chock: Thank you. Councilmember Kuali'i.

Councilmember Kuali'i: I too, will support the deferral until January. I think it is important to give the Planning Department the five (5) months. They only vetted Līhu'e. They can vet the rest in that time. With all the information and

with our ability to ask further questions and get answers, I would be able to make the amendments I would want to make or perhaps propose the bill that I would want to propose. I think it is important that we do that at this time. Thank you.

Committee Chair Chock:

Councilmember Hooser.

Councilmember Hooser: Thank you, Committee Chair Chock. The truth is that I am very disappointed that we are not able to pass this measure. I am frustrated, puzzled, and flabbergasted by the inability to get one (1) more person to support the passage of this. The attitude that we can take another five (5) months or take another year, we have been talking about this for a year. This is what, my fourth year back on the Council? I do not think there has been anybody who proposed anything for affordable housing and we are in a crisis. We have people living in parks, in *kiawe* trees, and under bridges all over this island. We are acting like it is no big deal. We will take another five (5) months. In six (6) months, we will talk about it. We will figure it out. We will be fair. We can be fair and pass this measure today and provide opportunity for the people that live in Līhu'e, Puhi, and Hanamā'ulu to build an additional rental unit on their property and then we can look at other areas. We are not saying do not do it in these other areas. We can be fair. This is ready to pass today. It has been well-thought out. We have been talking about literally from the conversation started until today, for a year. Before this, it was discussed another year in Honolulu. There has been a lot of nonprofit groups, a lot of studies, and a lot of analyses on things like the size of the units. The units are small because we want to encourage rentals at lower rates. The area that is chosen to be first is the Līhu'e district because the plan calls for it. We have gone over, and over, and over this. If any Member here has specific concerns about size, let us talk about size. Present an amendment. We can talk about it. We can vote the amendment up or down. Fine. We deal with the size. If Members are concerned about one hundred fifty (150) days, let us talk about that. Let us make it thirty (30) days. There is no reason that we cannot pass this today. The reasons that were given, I cannot fathom because they are all solvable today. We could do it island-wide incrementally. That is the way it should be done. Each planning district is its own. We should look at each one as its own. We could pass this today and still look island-wide. We could deal with the size issue. We could deal with the one hundred fifty (150) days. This is a crisis. We should be meeting weekly on this issue, not deferring it for five (5) months. This will increase the inventory of affordable housing. There is no question about that. The housing experts will tell you that. Affordable is a big definition. Affordable reaches all the way up to teachers, police officers, firemen, and middle-income people. Līhu'e is the place to do it. Creating additional inventory will create more affordable housing. We defer. We do not have the four (4) votes, so a deferral is the only option. Everyone that has all of these ideas, let us put them forward and put them on the table. If you have tax incentives and other ideas to spur affordable housing, let us put it on the table. This is the only thing on the table. It is the only thing I have seen on the table. We have a crisis and we are going put it off. There is no choice because we do not have the votes to pass it. I acknowledge that. I know how to count. I will just be disappointed and wait it out until January. Thank you.

Committee Chair Chock:

Follow-up, Council Chair Rapozo.

Council Chair Rapozo: The smaller units will force a generation of smaller rates is not true. If you believe that, then take a look at Craigslist and take a look at the classifieds on Kaua'i. These small units are well-above the affordable rental rates. The creation of more small units without an affordability clause is not going to generate affordable housing. I do not know what housing experts or who they are, but I do not need the experts. Like I said, just look at the available units today locally on Kaua'i, not nationwide or statewide, but on Kaua'i. You will see that these little eight hundred (800) square foot units are bringing in one thousand two hundred dollars (\$1,200), one thousand four hundred dollars (\$1,400), or one thousand six hundred dollars (\$1,600) a month. That is not affordable. A family of four (4) cannot move into a small unit and pay that kind of money. I just want to say that to pass this off as an affordable housing measure is not accurate. It is not. This is not what this is. This is a bill to increase inventory and that it is. That is something that we need as well, but to pass this off as an affordable housing attempt, I do not think that is accurate. The small units nowadays generate quite a bit of revenue. Next week, I have a Resolution that will be a suggestion to increase affordable housing, and you will all see it at the Council Meeting. Thank you.

Committee Chair Chock: Thank you. Anything further?  
Councilmember Kagawa.

Councilmember Kagawa: I have been looking at some of our homeless problems and I have to say over fifty percent (50%) looks like they moved from the mainland. I do not know how this ARU Bill is going to help solve that. I think the State and Federal government needs to find why they are coming and how they are coming. Really, it is more than this ARU Bill that is going to solve that problem. Another thing that was brought up was that waiting is not going to help anything. I think the Planning Department has said before that they do not even know how much illegal units there are and we have heard complaints from 1982. How many illegal units already exist? This ARU Bill is being done prior to 1982 and evidence of that is primarily in Puhi and Hanamā'ulu. I think we can do more. We can get better information from the Planning Department. We can get better work done and better suggestions done as far as the other communities. But I think we should use this time again to work more productively and get better information instead of just pulling numbers out of our head and doing random amendments. Thank you.

Committee Chair Chock: Thank you. Anyone else? Yes.

Councilmember Kualii: I just wanted to say that for me, it is important. None of us put this Bill forward. This Bill came from the Planning Department. The hard part for me is that in putting the bill forward, the Planning Department already limited it to Līhu'e so the Bill cannot be amended to include anything beyond the Līhu'e planning district. The Planning Department willingly said to us that they are willing to go back, vet it, do the work, and that they can do it in five (5) months. I wanted that information because I do not want to approve a bill just for Līhu'e without, in fairness, considering some other areas that address some other parts of the island. I want something on the west side, something in 'Ele'ele and west. I also want something on the east side, something in Kapa'a and further east just to be fair to address the need that is everywhere. It is not just in Līhu'e. The rest of our island has been seeing so much of the resources pour into

Līhu'e with all of this Transportation Investment Generating Economic Recovery (TIGER) grant activity, all of these nice streets to walk, and everything. That is good. That is nice. That is an investment in the long-term future, but we need to be fair to the entire island. We are talking about five (5) months to increase our housing inventory for the indefinite future. I need that information. That is why I am not supporting this today and I want this within the next five (5) months. Thank you.

Committee Chair Chock: Thank you. Okay. I think we all want the same thing or just about all of us want the same thing in terms of getting affordable housing out to as wide population as possible on this island. Just to give a little bit of history on this, it has been talked about for about a year. While it was a request by the Planning Department, I think it was actually a combination of interests that spearheaded it. When I first looked at it, my interest was for island-wide and we were told that it is not where we want to go. We want to look at Līhu'e first as an incubator. The discussion on affordable, which is why the word "affordable" was in there and taken out along with the tax incentives, a part of was because we understood that there was a need for affordable and thought we could get it done. We were told "No, let us do an incentive bill," which is currently why we have one hundred fifty (150) days on the extension of that to see that work done. My expectation and hope is that in five (5) months not only do we see a new bill, but we also see that incentive bill alongside with that because I agree with some of the sentiments that Anne and Council Chair Rapozo has mentioned, that I think it is our duty to see that is handled as well. It just was not what we had decided within the scope of this. This has morphed over time to be more of an inventory, and I think that is something that we should continue to look at as well. If the Planning Department says that they can do the work that is required, stay within the principles of planning, and do the community outreach without going and completing all of the community plans in order to vet this further, then let us have them do that. Let us have them move forward and see it done. I think that I have some fears about it. I certainly do not want to see some of the outcomes of what we have experienced in growth occur as well, but that is sort of a separate issue as well that we need to take care of. A lot of work needs to be done. Again, my first option would be to pass this just because of the history that I have with it. I am much more comfortable knowing that I have answered some the questions myself. But the truth is that not all the votes are here and other people want to see it done a different way. That is what it is. It is just being done a different way. If we need go back to the board and work on this, then that is what we will do. My biggest interest was not to kill it. Do not kill this Bill. Do not kill the opportunities because we have so much need in terms of affordable housing, inventory, and every other aspect of homelessness that we need to address that we are only taking a small step forward. If we cannot do this, then my goodness, we will not be able to even address a fraction of what the needs are for our community. Deferring it means that it is not being killed and that we continue the discussion. My hope is that five (5) months goes by quickly because the people need this. Those are my comments for today. Councilmember Yukimura.

Councilmember Yukimura: I want to say that I am ready to vote today to approve the Bill for Līhu'e based on the small size, the fact that it allows this only where infrastructure is adequate, and where it is aligned with the General Plan and the community plan. I am willing to vote for it without the requirement of

affordability because I can see the value of having the purpose of increasing supply. But I believe that we would give incentives only where we have assurance of affordability. That would be a workable system to me. I am hopeful that we use the time to figure out the incentives. I think it will be much more complicated if it is incentives island-wide.

Ms. Arakaki: Five (5) minutes.

Committee Chair Chock: Oh.

Councilmember Yukimura: I will go with the majority because there are not the votes to pass it.

Committee Chair Chock: Thank you. This is a Committee vote for today. Can I get a motion if there is no further comment?

Councilmember Kualii moved to defer Bill No. 2627, Draft 3 to the first Committee Meeting in January 2017, seconded by Councilmember Kaneshiro, and unanimously carried.

Committee Chair Chock: Motion passes. This concludes the business of the Planning Committee. The Planning Committee is adjourned.

There being no further business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,



Allison S. Arakaki  
Council Services Assistant I

APPROVED at the Committee Meeting held on September 14, 2016:



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MASON K. CHOCK, PL Committee